IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.M.No.263-CII of 2006
ITA NO. 3 of 2006 (O&M)
DATE OF DECISION: 21.8.2006

The Amar Shakti Cooperative Labour and Construction Society Ltd., Abohar
....APPELLANT

VERSUS

Commissioner of Income Tax, Bathinda.
....RESPONDENT

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: Mr. R.L.Gupta, Advocate for the appellant.

Rajesh Bindal, J.

C.M.No.263-CII of 2006

By filing an application under Section 5 of the Limitation Act, the appellant (hereinafter described as `the assessee') has prayed for condonation of delay of 123 days in filing the present appeal by taking the plea that after passing the order by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, `the Tribunal') on 17.2.2005, the assessee preferred an application for rectification of the same under Section 254(2) of the Income-tax Act, 1961 (for short, `the Act'), which was dismissed on 13.5.2005 and if the period for limitation is counted from the date of receipt of the order passed in the rectification application, the same is within limitation.

An order passed in appeal is dependent on the order passed in the rectification application against which the assessee has independent right of appeal. Merely because the rectification application was filed and remained pending before the Tribunal, the same cannot be termed to be a good ground for condonation of delay.

Accordingly, finding no merit, the application for condonation of delay is dismissed.

We have even examined the case on merits. Similar issue raised by other similarly placed Cooperative Labour and Construction Society came up for consideration before this Court in I.T.A.No.20 of 2006- The Bandi Cooperative Labour & Construction Society v. Commissioner of Income-tax, Bathinda, where the appeal filed by the assessee was rejected by this Court on 16.5.2006.

Accordingly, for the reasons stated therein, even on merits, we do not find that any substantial question of law arises in the present appeal. The appeal is dismissed.

(Rajesh Bindal)
Judge

(Adarsh Kumar Goel)
Judge

21.8.2006
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